

EXHIBIT E

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THE VIDEOGRAPHER: Here begins media

21

number 1 of the deposition of R. Lee Fraley in the

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matter of Teledyne versus Honeywell, this case is in

23

the Central District Court of California. The case

24

number is 06-06803. Today's date is February 21st,

25

2008, the time is 9:08 a.m. The deposition is taking

1 place at Snell & Wilmer 400 East Van Buren, Suite
2 1900, Phoenix, Arizona, 85004 and is being taken on
3 behalf of the plaintiffs and counter defendants. The
4 videographer is kill la Camenzind appearing on behalf
5 of Sarnoff court reporters and legal technology,
6 located in Irvine, California, would counsel please
7 identify yourselves and state whom you represent
8 please.

9 MR. ALDEN: Anthony Alden of Quinn
10 Emanuel representing Teledyne Technologies,
11 Incorporated, plaintiff and counter defendant.

12 MR. STARR: *Ephrain Starr with Kirkland
13 & Ellis LLP on behalf of of Honeywell.

14 MR. CONDO: Jim Condo and Wendy Neal with
15 Snell & Wilmer, LLP on behalf of the witness in his
16 individual capacity and as a member of Snell & Wilmer
17 LLP.

18 THE VIDEOGRAPHER: Thank you. Madam
19 court reporter if you would please swear in the
20 witness.

21
22 R. LEE FRALEY,
23 Having been first duly sworn, was examined and
24 testified as follows:

25 THE VIDEOGRAPHER: We are on the record

1 at 909 a.m.

2 E X A M I N A T I O N

3 BY MR. ALDEN:

4 Q. Good morning, sir, as you just heard, my
5 name is Anthony Alden, I'm an attorney with Quinn
6 Emanuel Urquhart Oliver & Hedges in Los Angeles. I
7 represent plaintiff and counter defendant in this
8 suit, Teledyne Technologies, Incorporated.

9 What is your full name, sir?

10 A. My full name is Robert Lee Fraley.

11 Q. And how do you spell Fraley?

12 A. F-r-a-l-e-y.

13 Q. And what is your current business
14 address, sir?

15 A. Snell & Wilmer is located at, my office
16 located at 1 Arizona center, 400 east Van Buren,
17 Phoenix, Arizona 850 -- 85004.

18 Q. Mr. Fraley, have you ever had your
19 deposition taken before?

20 A. No, I have not.

21 Q. Have you ever offered testimony in any
22 case?

23 A. No.

24 Q. Why don't we go over some ground rules
25 just so the deposition proceeds smoothly. I will be

1 technology where they can, how they do that.

2 BY MR. ALDEN:

3 Q. Do you know whether the signals that the
4 satellite dish that's on your roof receives are
5 signals that are broadcast generally over a
6 geographic area or from they signals that are
7 broadcast specifically to you or something else?

8 A. That's multiple questions, but I don't
9 know. The answer is I don't know whether or not the
10 signals that I receive are broadcast to another
11 person or if they're broadcast to knee, I don't know
12 for sure. . I guess it could be both, meaning some
13 could go to me and go to someone else and other ones
14 not be available to others, I mean, again, I'm not
15 sure.

16 Q. Do you have any understanding as to
17 whether an aeronautical satellite is different to a
18 direct broadcast satellite?

19 MR. STARR: Objection, calls for opinion
20 testimony.

21 THE WITNESS: I don't have any specific
22 understanding if they're -- quite frankly I don't
23 quite understand what they exactly are, but I don't
24 have any understanding that, you know, how they
25 relate or --

1 attempt to try to look at the application. At some
2 level it says it's a data source comprising a network
3 system for the storage of related data information.

4 Q. Do you think it's referring, when it
5 refers to data source do you think it's relating to a
6 technical term in Element 1 of Claim 1?

7 MR. STARR: Objection; calls for opinion
8 testimony.

9 THE WITNESS: I'm not sure -- what do you
10 mean by a technical term?

11 BY MR. ALDEN:

12 Q. Well, do you think that it requires some
13 technical knowledge to understand what a data source
14 is that it's referring to in Element 1 of Claim 1?

15 MR. STARR: Objection; calls for opinion
16 testimony.

17 THE WITNESS: If what you're asking does
18 it require -- are you asking does it require more
19 than reading the words?

20 BY MR. ALDEN:

21 Q. Well, I'm asking do you have an
22 understanding of what a data source is that's
23 referred to in Element 1 of Claim 1?

24 A. Do I have an understanding? Yeah, maybe
25 something.

1 unit is a term of art in any particular field?

2 A. No, I do not.

3 Q. Do you ever an understanding of what was
4 meant by the term transmission unit in the context of
5 Claim 1 during prosecution of the patent?

6 Q.

7 A. I don't recall.

8 Q. Do you have an understanding of what the
9 term satellite data unit means?

10 A.

11 MR. STARR: Objection, calls for opinion
12 testimony.

13 THE WITNESS: No.

14 BY MR. ALDEN:

15 Q.

16 THE WITNESS: I do not, I don't have even
17 an understanding, I'm not quite sure what data unit,
18 some kind of -- a data unit for a satellite is the
19 only thing that's coming to mind, but I'm not quite
20 sure what it means.

21 Q. Do you know if it's a term of art in any
22 particular field?

23 A. No, I'm not aware.

24 Q. So having been involved in the
25 prosecution and reviewed some of the patent file

1 history prior to your deposition today, you are
2 unable to tell me what a satellite data unit is; is
3 that correct?

4 MR. STARR: Objection; argumentative.

5 THE WITNESS: I don't think I could tell
6 you with any kind of certainty, that's described in
7 the specification.

8 Q. What about a radiofrequency unit?

9 MR. STARR: Excuse me, Mr. Fraley, are
10 you done answering the last question?

11 THE WITNESS: What's that?

12 MR. STARR: Are you done answering the
13 last question?

14 THE WITNESS: I apologize, I interrupted
15 - I said I don't know if the data, the satellite data
16 unit is with any certainty except what it says in the
17 specification, I'd have to go look and see.

18 Q. Do you have any understanding of what a
19 radiofrequency unit is?

20 A. Likewise, I'm not real -- real
21 knowledgeable what it could be, I mean, again I could
22 guess or conjecture and maybe it's -- it's a
23 transmission unit comprises a radio transmission unit
24 and a radiofrequency unit, so maybe it's some type of
25 device that transmits via radiofrequency.

111

1 Q. Well, do you know if a satellite data
2 unit transmits via radiofrequency?

3 A. I don't know.

4 Q. Did you have any understanding in, during
5 prosecution of the '152 patent as to what a
6 radiofrequency unit was?

7 A. I don't recall.

8 Q. If you look at the next claim it refers
9 to a first communication medium, do you have see
10 that?

11 A. The next element.

12 Q. Sorry the next element, do you see that?

13 A. Yes, I see that.

14 Q. Do you know what a first communication
15 medium is?

16 MR. STARR: Objection, calls for opinion
17 testimony.

18 THE WITNESS: Not specifically just
19 hearing those terms, I'm -- the claim seems to help
20 provide some idea, but I don't have -- those words
21 don't specifically have a meaning.

22 Q. What's -- what idea do you think that
23 the claim provides with respect to the meaning of the
24 term first communication medium?

25 MR. STARR: Objection, calls for opinion

1 testimony.

2 THE WITNESS: Yeah, there's a -- there's
3 another, maybe I can certain here tell by the index,
4 but it may be that the communication medium also
5 comprise's radio ground station, I'm not sure if
6 that's the same ground station or --

7 Q. Is it your understanding that the word
8 comprises or comprising in the context of a patent
9 has a particular meaning?

10 A. Do I understand that comprising has a
11 different -- has a particular meaning.

12 Q. In the context of patents?

13 A. In the context of patents. I have an
14 understanding.

15 Q. And what is that understanding, sir.

16 A. Comprising means includes.

17 Q. Okay. So would it be your understanding
18 based on your reading of Claim 1 that the first
19 communication medium includes an aeronautical
20 satellite system and a ground station -- and a radio
21 ground says station adapted to receive information
22 request signals from a radiofrequency unit?

23 A. I guess reading the word comprising,
24 sometimes it's read as the word includes, include
25 those elements. I guess you're asking me if as I'm

1 looking at it here now I can't tell you that a ground
2 station and a radio ground station are two different
3 things, maybe, I'd have to study it more, I don't
4 know if it's meant to refer to the same or two
5 different --

6 Q. But certainly based on your reading of
7 Claim 1 you would say that the first communication
8 medium includes an aeronautical satellite system and
9 a ground station?

10 A. Yeah. Yeah, yeah I would see that.

11 Q. If you can go on to look at the next
12 element, you see there it refers to a second
13 communication medium?

14 A. I see a second communication medium in
15 line four.

16 Q. Right. Do you have an understanding as
17 you sit here today of what a second communication
18 medium means?

19 A. Again, similar to the first communication
20 medium, I guess another one.

21 Q. Another communication medium?

22 A. Another communication medium.

23 Q. And do you see that in that same element
24 it refers to a direct broadcast satellite?

25 A. I see it says comprising a direct

1 broadcast satellite, line five.

2 Q. So would it be your understanding as we
3 spoke about just previously that the second
4 communication medium includes a direct broadcast
5 satellite?

6 MR. STARR: Objection, calls for opinion
7 testimony.

8 THE WITNESS: Yes, absent other reasons,
9 I mean, it looks like a second communication would
10 direct an include a direct broadcast satellite.

11 Q. And what other reasons would there be for
12 depart interesting what the claim says?

13 A.

14 MR. STARR: Objection, calls for opinion
15 testimony.

16 THE WITNESS: I guess you'd have to look
17 to the body of the application, I'm not sure if
18 there's other reasons within dependent claims maybe
19 something in the specification that states some
20 particular reason, it could be something in the
21 prosecution, it could be in its interpretation, I
22 don't know if this patent has ever been litigated
23 before, but maybe something has happened there.

24 Q. Can the specification or the file history
25 of a patent alter the plane meaning of the words of

1 the average jury is from, but I'm not an expert on
2 that either, probably, I'm probably average, I tend
3 to think somewhere in there seems seems possible.

4 BY MR. ALDEN:

5 Q. Well, you have a degree in electrical
6 engineering, you can't identify any particular
7 satellite systems that afford access to greater band
8 width than a telephone system, do you think your
9 average person who doesn't have a bachelor's in
10 electrical engineering be able to identify them?

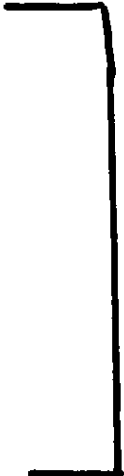
11 MR. STARR: Objection, calls for
12 speculation, calls for opinion testimony.

13 THE WITNESS: You know, again, sort of
14 speculating I guess maybe unless they're sort of
15 working in that industry, they're probably going to
16 have a similar view to what I have, other ones maybe
17 less.

18 Q. Can you identify for me sitting here
19 today any satellite services that afford a higher
20 data transfer rate than the telephone system?

21 MR. STARR: Objection, calls for opinion
22 testimony.

23 A. I don't know specifically. I suspect
24 that there are, buff I wouldn't have a great basis
25 to, or any specific dash.



1 Q. Do you think an average juror is going to
2 be able to identify a satellite system that has
3 relatively high data transfer rates relative to a
4 telephone system?

5 MR. STARR: Objection; foundation, calls
6 for opinion testimony?

7 THE WITNESS: I suspect like myself, I
8 -- I don't know if they can identify at that
9 particular provider, I suspect that maybe they
10 believe satellite's going to be faster much like I
11 would tend to think it's faster than a phone system.

12 Q.

13 BY MR. ALDEN:

14 Q. Sitting here today, do you have an
15 understanding of what the term wireless LAN system
16 means?

17 MR. STARR: Objection, calls for opinion
18 testimony.

19 A. I have some understanding.

20 Q. What is your understanding of the term
21 wireless LAN system.

22 A. Some understanding that LAN stands for
23 local area network, and I'm sort of putting two and
24 two together, I don't know if that necessarily means
25 the network communicates locally wireless or if it's

1 one that's a network that communicates wire Leslie to
2 some other, you know, receiver or transmitter.

3 Q. Could you repeat back that answer,
4 please?

5 MR. STARR: Please just do the question
6 and answer so I can hear it as well.

7 (Record read.)

8 BY MR. ALDEN:

9 Q. In that answer you appear to be make ago
10 distinction, could you elaborate the distinction for
11 me, I wasn't entirely clear?

12 A. I don't know what the meaning of the word
13 wireless, I mean, it could be both, could have again
14 I don't know specify knee local area network, but
15 looking at the terms you've got some network that's
16 local, in a locale, and either the wireless I would
17 suspect could modify that maybe within that network
18 it communicates wireless Lee, maybe another thought
19 is that network could communicate wireless Lee out to
20 some other transmitter or receiver is somewhere or
21 maybe it it does both. Again, that's, I wouldn't
22 call it an educated guess, but a thought.

23 Q. As someone who has a bachelor of eye
24 sense in e- e- do you have any understanding of what
25 a wireless LAN system would include?



1 MR. STARR: Objection, calls for opinion
2 testimony.

3 THE WITNESS: No, not with any kind of
4 reasonable certainty, I mean, other than throwing out
5 a generic term like a there's got to be some kind of
6 connection means I assume to billed a network you
7 connect a couple things together, so whether that's
8 some type of transmitters or receivers or direct
9 cable of some type, but no specific knowledge.

10 Q. If I said to you that a wireless LAN
11 system is a wireless LAN unit in corresponding
12 transmission medium, what would you understand the
13 corresponding transmission medium is?

14 A.

15 MR. STARR: Objection, lacks foundation,
16 calls for opinion testimony.

17 THE WITNESS: Repeat that, you say
18 wireless LAN system.

19 Q. If I said to you that a wireless LAN
20 system is a wireless LAN unit and corresponding
21 transmission medium?

22 A. And corresponding.

23 Q. Transmission medium, what would you
24 understand the corresponding transmission medium to
25 be or include?

1 MR. STARR: Objection, lacks foundation,
2 calls for opinion testimony.

3 THE WITNESS: I could guess it could be
4 something within the LAN unit, you know, it could
5 contain some type of communication medium or there
6 could be a communication medium outside of it, that
7 helps it communicate, but I'm really not certain,
8 just kind of in that context.

9 Q. Well, would you know what that medium
10 would be?

11 A.

12 MR. STARR: Objection, lacks foundation,
13 calls for opinion testimony.

14 THE WITNESS: Absent a whole lot of
15 information, no, I would -- nothing is coming to
16 mind.

17 Q. Do you recall whether in 1998 to 1999
18 time frame you understood what the term wireless LAN
19 system meant?

20 A. I don't recall.

21 Q. Presumably if I represent to you that it
22 was included in claim six you had an understanding at
23 the time that you drafted the application?

24 A. You might be able to presume at some
25 point I had some understanding of what it is whether

1 it's one I would have now or even one that would be
2 viewed now, I don't know

3 Q. Do you have an understanding sitting here
4 today of what the term radiofrequency system means?

5 A. No, it's -- it's a fairly broad term,
6 again it would be just conjecture to say some type of
7 system capable of communicating radiofrequency.

8 Q. Well, if I told you again that it was
9 used in claim six of the '152 patent, do you think
10 you had an understanding in the 1998 do 1999 time
11 frame?

12 A. I'm not certain, but I mean, it's
13 possible, I had some understanding.

14 Q. But you don't recall what that
15 understanding was sitting here now?

16 A. I do not recall the understanding.

17 Q. If I told you that a radiofrequency unit
18 meant -- sorry, strike that.

19 If I told you a radiofrequency system
20 meant a radiofrequency unit and corresponding
21 transmission medium, do you know what the
22 corresponding transmission medium would be?

23 A. Didn't we just ask that, I'm sorry?

24 Q. We asked a similar question with respect
25 to LAN. Now I'm moving on to a different term, which

1 is radiofrequency system, and I'm asking you if I
2 said to you that a radiofrequency system means a
3 radiofrequency unit and a correspond -- and
4 corresponding transmission medium, what would you
5 understand the corresponding transmission medium to
6 be?

7 MR. STARR: Objection; lacks foundation,
8 calls for opinion testimony.

9 THE WITNESS: I guess, from my
10 understanding, is it's a component of the
11 radiofrequency system. Things sort of come to mind
12 it's either a part of the radiofrequency unit that
13 helps communicate some kind of medium or it's
14 something separate. I'm not sure what it's a part of
15 or something in addition to the radiofrequency unit.

16 Q. If I asked you, sitting here today, what
17 the term "voice channel system" means, do you have an
18 understanding?

19 A. No, I wouldn't. I couldn't even
20 conjecture at this point.

21 Q. Do you know what a voice channel is?

22 A. Not specifically.

23 Q. Well, again, if I told you that the term
24 voice channel system was used in claim six of the
25 patent, did you have an understanding in the 1998 to

1 1999 time frame of what the term voice channel system
2 meant?

3 A. I don't recall any understanding.

4 Q. But presumably you had one at the time?

5 A. I would probably resume at some point, I
6 don't know whether that's the ordinary meaning today
7 or not, I have no idea.

8 Q. Is it fair to say you don't know what a
9 voice channel unit is?

10 A. I can't say that I know what it is.

11 Q. Now, earlier we were discussing the fact
12 that you had reviewed at least portions of an office
13 action summary that formed part of the file wrapper
14 is that correct?

15 A. Correct. I recall reviewing portions of
16 it.

17 Q. If we can turn back to that exhibit, it
18 was exhibit number 45.

19 A. Okay, I have 45.

20 Q. Do you recall -- strike that. I believe
21 that you said that you reviewed on the first page
22 where it said disposition of claims claims one to 12
23 is art rejected, is that correct?

24 A. I reviewed, I recall reviewing the front
25 page and the thing recalled was reading that line

1 Q. Sitting here today, what do you think the
2 key features of the '152 patent are?

3 MR. STARR: Objection, asked and
4 answered, calls for opinion testimony.

5 THE WITNESS: May I look to the
6 application.

7 Q. I'd prefer you to just answer based on
8 your recollection?

9 A.

10 MR. STARR: Objection, asked and
11 answered, calls for opinion testimony.

12 THE WITNESS:

13 A. Based on my recollection what is, I
14 understand you said what the key features what that
15 means.

16 Q. Yes?

17 A. By that do you mean, I'm sorry, the
18 elements of the claims or dash.

19 Q. By that I mean what do you believe are
20 the key patentable features of the '152 patent?

21 A.

22 MR. STARR: Objection, calls for opinion
23 testimony, also objection, to the form of the
24 question.

25 A. I guess I could surmise, this is going

1 back to recall our conversation dealing with the
2 notice of allowability, there was a combination of
3 elements, I wasn't certain when I read that whether
4 that was dealing with all the claims or one claim,
5 elements being, you know, communication medium, data
6 source, second communication medium, information
7 request system, I'm sorry I can't think of the other
8 element.

9 Q. That's okay.

10 MR. STARR: Can I have the last q-and
11 a-read back please.

12 (The record was read from page **, line.
13 **, to page **, line **.)

14 BY MR. ALDEN:

15 Q. I'd like to mark as exhibit 56 a document
16 Bates numbered Snell 000726, please?

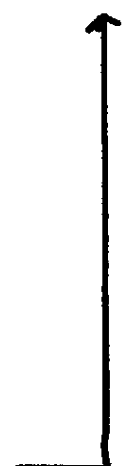
17 Q. Mr. Fraley, do you recall ever having
18 seen this document before?

19 A. No recollection.

20 Q. Okay. Would you agree that U.S. serial
21 number 09/224, 214 that's referenced under the
22 redacted ray line is the serial number for the '152
23 application?

24 A. That appears correct.

25 Q. Does this document refresh your



1 within 30 days we will return the original signature
2 page to the court reporter for filing.

3 MR. STARR: Works for me, for you.

4 MR. ALDEN: I just have one more
5 question. Was the same approach adopted with respect
6 to all the subjects of the document requests, not
7 only the '152 but other related applications.

8 MR. CONDO: For both this deposition and
9 the Brett Carlson deposition, the same approach was
10 used in responding to both sets of document requests.

11 MR. ALDEN: Okay.

12 THE VIDEOGRAPHER: We're done?

13 This concludes the videotaped deposition
14 of R. Lee Fraley, we have used seven tapes, we are
15 off the record at 4:41 p.m.

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